

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re Chapter 9
CITY OF DETROIT, MICHIGAN, Case No. 13-53846
Debtor Hon. Steven W. Rhodes

CARLA D. AIKENS, P.C. FOLEY & LARDNER LLP
Carla D. Aikens, (P69530) John A. Simon
Attorney for Plaintiffs Tamar N. Colcourt
P.O. Box 6062 Attorney for Debtor
Vernon Hills, IL 60061 500 Woodward Ave.
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Detroit, MI

U.S. BANKRUPTCY COURT
CLERK'S OFFICE
2014 SEP 23 PM 5:51
FILED

**REGINALD WILSON'S RESPONSE TO DEBTOR'S SIXTH OMNIBUS
OBJECTION TO CERTAIN CLAIMS (Late-Filed Claims)**

NOW COMES Claimant, REGINALD WILSON, by and through his attorneys, Carla D. Aikens, P.C. and for his Response to Debtor's Sixth Omnibus Objection to Certain Claims (Late-Filed Claims), states as follows:

1. Claimant has a verified claim against the Debtor pursuant to Wayne County Circuit Court Case No. 13-004272-NF.
2. On November 21, 2013, this Court issued a Bar Date Order establishing a deadline for proofs of claim to be filed by February 21, 2014 at 4 p.m., EST.
3. In compliance with the Bar Date Order, and pursuant to § 3003(c)(2) of the Federal Rules of Bankruptcy Procedure, on February 18, 2014, Claimant's Attorney mailed to the Bankruptcy Court Claimant's Proof of Claim, with

1 - Claimant's Objection to Debtor's Sixth Omnibus Objection to Certain Claims

Exhibits (see Exhibit A: Plaintiff's List of Outstanding Billing, dated February 17, 2014).

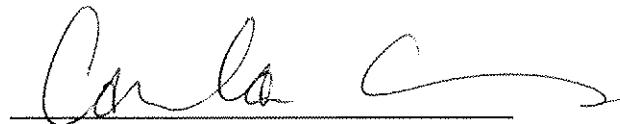
4. This Court has previously held that “[a] properly executed proof of claim includes: the creditor's name and address; the basis for the claim; the date the debt was incurred; the classification of the claim; the amount of the claim; and supporting documentation.” *In re Dietz*, 136 B.R. 459, 462 (Bankr. E.D. Mich. 1992). Claimant's proof of claim complied with all such requirements, as evidenced by Exhibit A.
5. § 3001(f) of the Federal Rules of Bankruptcy Procedure states that, “A proof of claim executed and filed in accordance with these rules shall constitute *prima facie* evidence of the validity and amount of the claim.” Because Claimant's claim was properly executed and timely filed, it is valid. (“A proof of claim that is properly executed and filed in accordance with § 502(a) and Bankruptcy Rule 3001(f) constitutes *prima facie* evidence of the claim's validity and amount.” *In re Dow Corning Corp.*, 250 B.R. 298, 321 (Bankr. E.D. Mich. 2000). See also *Juniper Development Group v. Kahn (In re Hemingway Transp., Inc.)*, 993 F.2d 915, 925 (1st Cir.1993); *In re Holm (Wright v. Holm)*, 931 F.2d 620, 623 (9th Cir.1991)).
6. On March 26, 2014, Claimant's attorney received Proof of Claim confirmation, receipt-dated February 25, 2014, issued by City of Detroit Claims Processing and assigning Claim No. 3596 to Claimant's claim. *See* Exhibit B.
7. Based on the number of claims listed by City of Detroit that were received on February 25, 2014, it is apparent that Claimant's Proof of Claim was received

before the Court's Proofs of Claim filing deadline of February 21, 2014, but was not processed until February 25, 2014.

8. The date on the receipt should have been the date the claim was received, and not the date it was opened or processed.
9. Pursuant to 11 U.S.C. § 502, a proof of claim is deemed allowed unless a Debtor objects. In the present case, the Debtor is basing its objection on the ground that Claimant's claim was not timely filed. Based on the dates in Exhibit A, it is evident that Claimant's claim was timely filed, but not timely processed at the fault of none other than the debtor. The fact that the Debtor did not process the claim until after February 21, 2014, is not a valid reason to object to Claimant's claim.
10. Further, the fact that Claimant's claim was settled on August 8, 2014, before the Debtor even filed this objection on August 29, 2014, is also indicative that there is absolutely no basis for the Debtor to now be alleging that the claim was filed late.
11. The claim of Claimant, Reginald Wilson, should not be prejudiced by the city's failure to acknowledge receipt in a timely manner.
12. For the foregoing reasons, Claimant's proof of claim should be deemed valid and included in this proceeding.

WHEREFORE Claimant respectfully requests that this Court overrule Debtor's Sixth Omnibus Objection to Certain Claims (Late-Filed Claims), and grant any further relief it deems fair and equitable.

Respectfully Submitted,

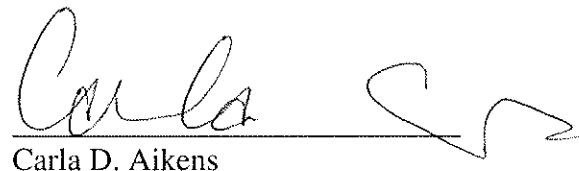


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Attorney for Claimant
Carla D. Aikens, P.C.
P.O. Box 6062
Vernon Hills, IL 60061
(215) 219-7404
carla@aikenslawfirm.com

Dated this 19th day of September, 2014

Certificate of Service

The undersigned certifies that a copy of the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein by mail on September 22, 2014, by:


Carla D. Aikens

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In re Chapter 9

CITY OF DETROIT, MICHIGAN, Case No. 13-53846

Debtor Hon. Steven W. Rhodes

Exhibit List

| <u>Exhibit</u> | <u>Description</u> |
|----------------|-----------------------------------------|
| A | Plaintiff's List of Outstanding Billing |
| B | Proof of Claim Confirmation |

Exhibit A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

REGINALD WILSON,

Plaintiff,

Case No. 13-004272-NF
Hon. Robert J. Colombo, Jr.

CITY OF DETROIT,

Defendant.

CARLA AIKENS (P69530)

CARLA D. AIKENS, P.C.

Attorney for Plaintiff

PO Box 6062

Vernon Hills, IL 60061

carla@aikenslawfirm.com

SHANNON L. WALKER (P53794)

City of Detroit Law Department

Attorney for Defendant

2 Woodward, Suite 500

Detroit, MI 48226 (313) 237-3037

walks@detroitmi.gov

PLAINTIFF'S LIST OF OUTSTANDING BILLING

Defendant, the City of Detroit, submitted the following information regarding requests for checks that were submitted by Calvin Lenton, the person in charge of handling Plaintiff's PIP claim with the City of Detroit, to the Finance Department for payment on Plaintiff's claim. This itemization of checks requested was sent out previous to the City entering into bankruptcy, and thus there does not appear to be a dispute that Defendant owes this money to the entities listed on behalf of Reginald Wilson. This information was provided by Mr. Calvin Lenton. He could not confirm the amounts, thus

Plaintiff is unable to give exact dollar amount the amounts, but, upon information and belief, Defendant is aware of the amounts due and owing for each check. A few providers may have been paid recently, but Plaintiff cannot confirm for which dates of service those amounts correspond. Interest is calculable on these amounts at 12% per annum from 30 days after the date submitted.

| <u>Dates of Service</u> | <u>Provider</u> |
|---------------------------------|--------------------------------------|
| August 21-Feb 8, 2013 | Prescription Partners |
| September 1, 2012 - Feb 5, 2013 | Arden Rogers (household services) |
| May 28-June 28, 2012 | Level One Home Care (attendant care) |
| June 11 - October 7, 2012 | Level One Home Care (attendant care) |
| December 17, 2012 - Feb 1, 2013 | Level One Home Care (attendant care) |
| May 4, 2012 - June 4, 2012 | Blue Cross Medical Transportation |
| Sept 25 - Jan 8, 2013 | Wellness Transportation - \$2,988.00 |
| July 24 - Jan 29 2013 | Rehab R Us |
| December 3 - December 18, 2012 | Rehab R Us |
| Jan 20 12 - Nov 30 2012 | St. Mary's Rehab |
| Nov 19, 2012 | Industrial Pharmaceutical |
| July 24-Oct 4, 2012 | St. Mary's Rehab |

This is the balance that each of the providers above is claiming as of the date below:

Respectfully Submitted,

/s/ Carla D. Aikens
Carla D. Aikens
Attorney for Plaintiff

Date: February 17, 2014

Exhibit B

City of Detroit Claims Processing
c/o KCC
2335 Alaska Ave
El Segundo, CA 90245

FIRST CLASS
US POSTAGE PAID
EL SEGUNDO CA
PERMIT NO. 45049

Reginald Wilson
Carla D. Aikens, P.C.
675 Lakeview Parkway #6062
Vernon Hills, IL 60061

PROOF OF CLAIM CONFIRMATION

Your proof of claim filed against City of Detroit, Michigan, case no 13-53846 was received on 2/25/2014 and assigned claim number 3596

For more information, please visit <http://www.kcelle.net/Detroit> or call 1(877) 298-6236

11. *Leucosia* *leucostoma* (Fabricius) *leucostoma* (Fabricius)